



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
<http://www.epa.gov/region08>

DOCKET NO.: CWA-08-2003-0011

IN THE MATTER OF:

PALISADE OIL COMPANY

Respondent

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FINAL ORDER

Pursuant to 40 C.F.R. § 22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby ORDERED to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

November 26, 2002
DATE

SIGNED
Alfred C. Smith
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII

DOCKET NO.: CWA-08-2003-0011

In the Matter of:)	
)	
Palisade Oil Company)	EXPEDITED CONSENT AGREEMENT
)	
Respondent.)	

Complainant, United States Environmental Protection Agency, Region VIII, and Respondent, Palisade Oil Company, by their undersigned representatives, hereby settle the civil cause of action arising out of violations of the Spill Prevention Control and Countermeasures (SPCC) Plan regulations found during an inspection on September 6, 2001, and agree as follows:

The Clean Water Act (the Act), as amended, 33 U.S.C. § 1321(b)(6), authorizes the Administrator of EPA to assess administrative penalties against any person who violates the oil pollution prevention (SPCC) regulations, promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j). This authority has been properly delegated to the undersigned EPA official.

Respondent owns and/or operates a bulk fuel distributorship located at 25353 485th Avenue, Garretson, South Dakota.

Respondent admits its facility is subject to the SPCC regulations.

Respondent agrees to correct the items cited on the attached List of SPCC Violations within thirty (30) days unless an extension for achieving compliance is granted by EPA at its discretion.

Respondent admits that EPA has jurisdiction in this proceeding.

Respondent waives its right to a hearing before any civil tribunal, to contest any issue of law or fact set forth in this agreement.

This agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement.

This Agreement contains all terms of the settlement agreed to by the parties.

Respondent consents and agrees to the assessment of a civil penalty of \$2,450.00 which, shall be paid by sending, via certified mail, a cashier's or certified check for that amount, payable to "Oil Spill Liability Trust Fund" along with a signed copy of this agreement, to:

Jane Nakad
Technical Enforcement Program (8ENF-T)
USEPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

Respondent further agrees and consents that if Respondent fails to pay the penalty amount as required by this agreement once incorporated into the final order, or fails to make the corrective measures to obtain compliance as represented, this agreement is null and void, and EPA may pursue any applicable enforcement options.

The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this agreement and to bind Respondent to the terms and conditions of this agreement.

The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

Each party shall bear its own costs and attorneys fees in connection with this matter.

This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations described in this agreement.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION VIII,
Office of Enforcement Compliance and Environmental Justice, Complainant.**

By : **SIGNED**
Connally Mears, Director
Technical Enforcement Program

Palisade Oil Company, Respondent.

By: <u>SIGNED</u>	Name: <u>Tom Coburn</u>
	Title: <u>President</u>

List of SPCC Violations

SPCC Plan [40 C.F.R. § 112.3]:

Failure to prepare a facility SPCC Plan in accordance with 40 C.F.R. § 112.7.

Failure to implement a facility SPCC Plan in accordance with 40 C.F.R. § 112.7.

Some of the specific violations at the Palisade Oil Company are:

Fuel storage tanks are not subjected to scheduled integrity testing in violation of 40 C.F.R. § 112.7(e)(2)(vi).

Several oil stains on the ground inside the diked area indicate that oil leaks are not always corrected promptly in violation of 40 C.F.R. § 112.7(e)(2)(x).

Buried pipes between the storage tanks and the gas pumps are reportedly not coated or cathodically protected against corrosion in violation of 40 C.F.R. § 112.7(e)(3)(i).

Above ground pipe supports are not adequate to prevent sagging in violation of 40 C.F.R. § 112.7(e)(3)(iii).

Lacks schedules for inspections of above ground valves and pipelines in violation of 40 C.F.R. § 112.7(e)(3)(iv).

There are no signs to warn fuel delivery drivers of exposed pipes in violation of 40 C.F.R. § 112.7(e)(3)(v).

Inadequate secondary containment for truck loading/unloading areas in violation of 40 C.F.R. § 112.7(c) and (e)(4)(ii).

No warning/barrier systems to prevent premature vehicular departure in violation of 40 C.F.R. § 112.7(e)(4)(vi).

Lacks written procedures for inspections and for maintaining inspection records for three years in violation of 40 C.F.R. § 112.7(e)(8).

Facility lacks sufficient lighting to discourage vandalism and facilitate detection of leaks in violation of 40 C.F.R. § 112.7(e)(9)(v).

Personnel not properly instructed in spill prevention procedures in violation of 40 C.F.R. § 112.7(e)(10)(i).

Spill prevention briefings are not conducted for operating personnel in violation of 40 C.F.R. § 112.7(e)(10)(iii).

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED CONSENT AGREEMENT/FINAL ORDER** in the matter of **PALISADE OIL COMPANY, DOCKET NO.: CWA-08-2003-0011** was filed with the Regional Hearing Clerk on November 26, 2002.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Michael Risner Enforcement Attorney, U.S. EPA - Region VIII, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt to:

Tom Coburn, President
Palisade Oil Co.
25353 485th Avenue
Garretson, SD 57030-6115

and

Commander
Finance Center (OGR)
U.S. Coast Guard
1430 A Kristina Way
Chesapeake, VA 23326

November 26, 2002

SIGNED

Tina Artemis
Regional Hearing Clerk

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON NOVEMBER 26, 2002.